

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

OHIO

CHRISTOPHER SMITH,

Petitioner,

JUDGMENT IN A CIVIL CASE

V.

WARDEN, TOLEDO CORRECTIONAL  
INSTITUTION,

Case Number: 1:12-cv-00425

Respondent.

☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

...the Court ADOPTS and AFFIRMS the Report and Recommendation in all respects, GRANTS Petitioner's Motion to Hold Petition in Abeyance (doc. 9), and ADMINISTRATIVELY STAYS and TERMINATES this matter on the Court's active docket pending Petitioner's exhaustion of his Ohio remedies. Such stay is conditioned on Petitioner's filing a motion to reinstate the case on this Court's active docket within thirty (30) days after fully exhausting his state court remedies through the requisite levels of state appellate review.

Petitioner should be granted leave to reinstate the case on the Court's active docket when he has exhausted his Ohio remedies based on a showing that he has complied with the conditions of the stay. The Court further FINDS that a certificate of appealability should not issue with respect to the stay of the Petition so that Petitioner can exhaust available state remedies. The Court CERTIFIES pursuant to 28 U.S.C. § 1915(a)(3) that with respect to any application by Petitioner to proceed on appeal in forma pauperis, an appeal of this Order would not be taken in "good faith" and therefore the Court DENIES Petitioner leave to appeal in forma pauperis upon a showing of financial necessity.

3/21/2013

JOHN P. HEHMAN, CLERK

Date

Clerk

s/Kevin Moser

(By) Deputy Clerk